

IN THE UNITED STATES BANKRUPTCY COURT
NORTHERN DISTRICT OF OHIO

IN RE:

Chapter 7

**JAMES RONALD BURNS
(& d.b.a. Brookstone G.C. by Design, Inc.)
Debtor**

Adversary Case No. _____
Case No. 15-52933

* * * * *

**RONALD FRITZ
& DIANNE FRITZ
8193 Glanburn St., N.W.
N. Canton, Ohio 44720**

Judge Alan Koschik

Plaintiffs

**COMPLAINT FOR DETERMINATION
OF NON-DISCHARGEABILITY OF
DEBT PURSUANT TO
11 U.S.C. §523(a) (2), (4) and (6)**

vs.

**JAMES RONALD BURNS
1573 Willimantic Drive
Virginia Beach, VA 23456**

Defendant

Now comes Plaintiffs, Ronald Fritz and Dianne Fritz, by and through counsel, and for their Complaint against James R. Burns, states:

1. This Court has subject matter jurisdiction over the within adversary proceeding pursuant to Title 28, U.S. Code, Sections 1334 and 157.
2. This Court also has jurisdiction over this proceeding pursuant to Title 28 U.S.C. Section 1334, in that this proceeding arises in bankruptcy case no. 15-52933-amk

filed by James Ronald Burns under Chapter 7 of the Bankruptcy Code in the United States Bankruptcy Court for the Northern District of Ohio, Eastern Division.

3. This is a core proceeding pursuant to Title 28, U.S. Code Section 157.
4. Plaintiffs are a creditor of the Defendant in the within case which was filed on December 7, 2015.
5. This Court imposed a deadline of April 4, 2016 for the filing of Complaints to Determine the Dischargeability of Debts.
6. This is an adversary proceeding to determine the non-dischargeability of Defendant's debt to the Plaintiff.
7. Defendant is indebted to the Plaintiff in the sum of approximately \$92,000.00 as a result of fraudulent misrepresentations, concealments and conversions made and other actual fraud and theft willfully and maliciously committed by Defendant to the injury of Plaintiffs in connection with and to induce Plaintiff's to enter into a contract with Defendant.

FACTUAL BACKGROUND

Plaintiffs, Ronald & Dianne Fritz own a home located at 8193 Glanburn St., N.W., N. Canton, Ohio 44720.

1. Plaintiff would represent that they along with the Defendant, Burns entered into a written contract for the remodeling of their home (Exhibit A)
2. Defendant caused 4 contractual change orders to be implemented. Plaintiff later discovered this to be called front-loading and under bidding. By this time, Plaintiff had

paid to Defendant a sum in excess of \$92,000.00 for materials and only a shell of a home to show for it. (Exhibit B)

3. A significant amount of funds have been paid by Plaintiff out of pocket to pay for materials and sub-contractors towards the stabilization of their home by way of a support beam and windows and boarding up openings that had been created when Burns gutted the home..
4. Plaintiff states that Defendant-Burns offered to store the contents of their garage at his storage facility while structural changes were being done to their garage. Defendant Burns removed all contents (Exhibit C) and to date, despite requests has not returned their personal belongings. Defendant, also at that time had represented to Plaintiffs that the fixtures and materials purchased for their remodel were also in his storage facility so as to be available when ready for installation. To date, Plaintiff's have not received these items that had been paid for in advance and do not even know if they were ever actually purchased.
5. Plaintiffs would represent that they are elderly and the monies paid to Defendant Burns were their life's savings.
6. Plaintiffs herein have filed criminal charges against Defendant for fraud and theft as a protected class by way of being elderly, and the same is being reviewed by the Stark County Prosecutor's Office. Defendant has pending criminal charges on an indictment in Portage County for theft from another creditor.

WHEREFORE, Plaintiffs pray that this Court determine that Defendant's debt to Plaintiff in an amount of approximately \$92,000.00 along with statutory interest be excepted from discharge

pursuant to 11 U.S.C. §523(a) (2), (4) and (6); that this Court issue an order of judgment against Defendant and in favor of Plaintiffs' for said amounts, for the costs of this proceeding, for attorney's fees incurred by Plaintiff's in connection with this proceeding and for such other and further relief as this court shall determine to be just and equitable in the circumstances.

Respectfully submitted,

/s/ Ronald Fritz

Ronald Fritz

/s/ Dianne Fritz

Dianne Fritz

/s/ Frank J. Cimino

FRANK J. CIMINO, #0007323

Attorney for Plaintiffs

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CERTIFICATE OF SERVICE

The undersigned certifies that the below parties were served at the following addresses on the 29th day of March 2016, to the following, and via regular U.S. Mail pursuant to Fed. R. Bank P. 2002(g)(1)(A):

U.S. Trustee (via ECF)

Kathryn A. Belfance, Chapter 7 Trustee (via ECF)

E. Lee Wagoner, Jr. (ECF & regular US Mail)

Attorney for Burns, James R.

2351 Becket Circle

Stow, Ohio 44224

/s/ Frank J. Cimino

FRANK J. CIMINO, #0007323